

**MEMORANDUM**

To: Planning Commission

From: Paul Leonhardt, Planning & Zoning Manager

Date: July 13, 2021

**Subject: RZ21-01** – 5500 Chamblee Dunwoody Rd & 1244 Dunwoody Village Parkway, Parcel IDs # 18 366 01 001 & 18 366 01 022

**REQUEST**

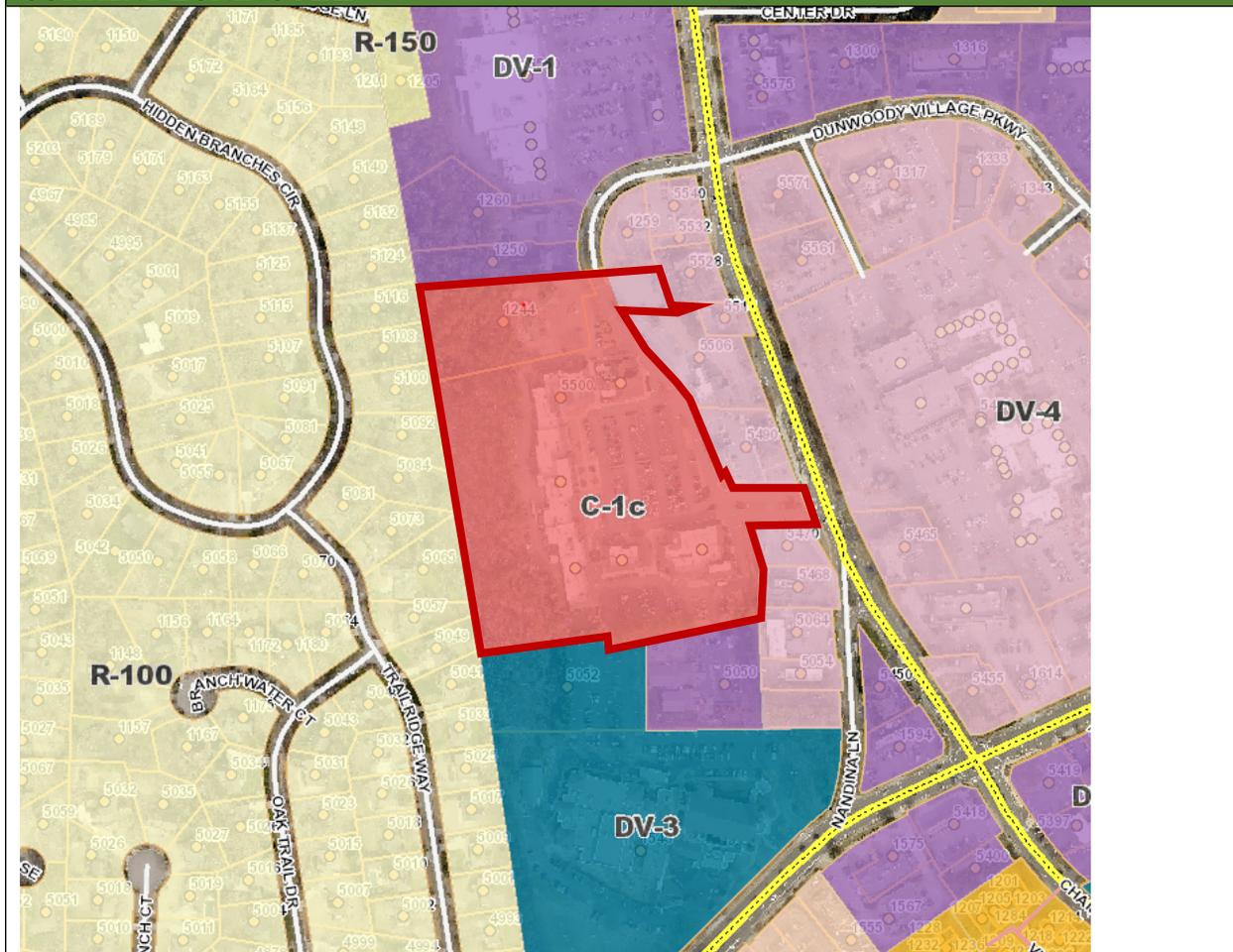
The City of Dunwoody sees a rezoning from the current C-1 (Local Commercial) District and Dunwoody Village Overlay District to the DV-4 (Village Center) District.

**APPLICANT & PROPERTY OWNER**

Petitioner: City of Dunwoody

Property Owner: Peachtree Shops of Dunwoody LLC (5500 Chamblee Dunwoody Rd) & Sodop II LLC (1244 Dunwoody Village Pkwy)

**CURRENT ZONING MAP**



<b>SURROUNDING LAND USE</b>			
Direction	Zoning	Future Land Use	Current Land Use
N	DV-1/DV-4	Dunwoody Village	Commercial
S	DV-1/DV-3	Dunwoody Village	Commercial/Institutional
E	DV-4	Dunwoody Village	Commercial
W	R-100	Residential	Single-family residential

**BACKGROUND**

On November 30, 2020, the City Council adopted the new zoning code for the Dunwoody Village. As part of the code overhaul, the City comprehensively rezoned properties in the Dunwoody Village area to four new Dunwoody Village zoning districts. The two subject parcels were initially part of that process; however, the City Council removed both after objections by the property owners. This rezoning case will complete the Dunwoody Village comprehensive zoning project and implement the zoning component of the Dunwoody Village Master Plan.

The parcel at 5500 Chamblee Dunwoody Rd. is currently zoned C-1 and is developed with the Shops of Dunwoody shopping center, including businesses such as Nai Thai Cuisine, Dunwoody Tavern, and Taqueria Los Hermanos. The parcel at 1244 is zoned C-1 and is developed with a small two-story commercial building and the Sunshine Carwash facility. Both lots front towards the Dunwoody Village district and are separated by an approximately 150- to 200-foot buffer towards a single-family residential neighborhood to the west.

The main issue of contention was the 130-foot undisturbed buffer plus 20-foot required transition yard along the western property line and adjacent to the Dunwoody West subdivision. The property owners contested that the buffer would amount to a taking. At the time of development in the 1970s, the developer negotiated a 150-foot buffer with the neighbors to the West. This private agreement expired since. The staff also conducted an extensive search for zoning conditions. The files transferred by DeKalb County at the time of the City’s incorporation appear incomplete, and additional open records requests to the County did not provide additional documents. Based on an initial review, the staff cannot find evidence of any zoning conditions requiring a 150-foot buffer.

Since then, the staff has continued negotiations with the property owners of the two subject parcels to complete the Dunwoody Village district-wide zoning project. The proposed agreement rezones the subject properties to the DV-4 (Village Center) district. Along the western property line of the two parcels, a 35-foot buffer adjacent to the property line is followed by a 115-foot required open space.

**DISCUSSION**

Under the initial draft regulations, the parcel at 1244 Dunwoody Village Parkway was zoned DV-1 (Village Commercial), while 5500 Chamblee Dunwoody Road was split-zoned along a future north-south street with the part fronting Chamblee Dunwoody Road zoned DV-4 (Village Center) and the part to the rear zoned DV-1 (Village Commercial). Under the current proposal, the entirety would be zoned DV-4.

The DV-4 district is intended as the core of the Dunwoody Village area and provides a mix of uses, centralized open spaces, and highly walkable development patterns at the highest intensity level of the four Dunwoody Village districts. When compared with the DV-1 district, the permitted uses are fairly similar, while the DV-4 district allows an additional story and higher impervious cover (see below table for comparison).

	<b>DV-4</b>	<b>DV-1</b>
<b>Maximum Height (&gt;100 from Single-family)</b>	5 Stories or 80 Feet, Whichever is Less	4 Stories or 65 Feet, Whichever is Less
<b>Maximum Impervious Cover (Sites ≥ 1 Acre)</b>	90 Percent	80 Percent
<b>Mixed-Use Requirement</b>	For All Developments Over 15,000 Square Feet of Floor Area, a Minimum of 2 Use Categories Shall Be Provided	Max. 75% of Floor Area May Be Residential

The heart of the agreement is to shift future development density from the western part of the properties, adjacent to the neighborhood, towards the center of the Dunwoody Village district. The property owner agrees not to construct any buildings within 150 feet of the neighborhood, while being granted the additional development potential that comes with the DV-4 zoning. While there are no current development plans, the staff believes that this agreement allows for sufficient development rights to achieve the goals of the Dunwoody Village Master Plan, while reducing impacts on the residential neighborhood.

The combined 35-foot undisturbed buffer and 115-foot open space exceeds the zoning standards for comparable new construction. Adjacent to a single-family residential subdivision, development in the current C-1-district (Local Commercial) would have to provide a TY2 transition yard that is 10 feet deep. Should the property remain in its current C-1 District, a new retail building could be built within 30 feet of the residential properties and a loading area could be within 10 feet of the residential properties.

	<b>Proposed (DV-4)</b>	<b>Current (C-1)</b>
<b>Undisturbed Buffer</b>	35 ft.	-
<b>Transition Yard</b>	-	10 ft. (TY2 yard)
<b>Required Open Space</b>	115 ft.	-
<b>Effective Building Distance from Residential Properties</b>	150 ft.	30 ft. (rear building setback)

**REVIEW AND APPROVAL CRITERIA**

In accordance with Georgia and local law, the following review and approval criteria shall be used in reviewing the respective amendment applications:

Section 27-335. Review and approval criteria.

b. Zoning Map Amendments. The following review and approval criteria must be used in reviewing and taking action on all zoning map amendments:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;
2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;
3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
5. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;
6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources;
7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed zoning map amendment is not tied to a specific project. Instead, it is intended to complete the comprehensive rezoning of the Dunwoody Village district that was adopted in 2020. As such, there will be no immediate impacts associated with the rezoning.

The Dunwoody Comprehensive Plan includes both subject parcels in the Dunwoody Village character area. The plan calls for a “center of the community, focused on pedestrian and bicycle amenities, functional public open space, a multi-modal transportation environment, architectural controls, connectivity, and place making” (p. 24). Further, the plan suggests, “redevelopment efforts should have a residential component” (p. 24). The zoning map amendment enables both goals by achieving a large public open space, enabling a mix of uses, and requiring the much stricter design standards of the Dunwoody Village zoning district.

Staff does not anticipate negative impacts on neighboring properties. On three sides, the subject properties are surrounded by properties that have Dunwoody Village zoning. Staff anticipates that any future redevelopment will similarly meet the vision for the district as expressed in the Comprehensive Plan. While there is currently a vegetated buffer of approximately 150 to 200 foot along the western property lines, no impacts are anticipated until the property is redeveloped in the future. Under current zoning rules, the property owner could construct commercial structures within 30 feet of the property line. The proposed rules are significantly more protective, requiring future buildings to be 150 feet from the property line.

There are no known historic building or site or archaeological resources affected. Staff anticipates no excessive or burdensome impacts on infrastructure or schools. Staff anticipates that the mix of uses that is enabled by the proposed zoning will contribute to less resource usage than comparatively sized single-use developments would have.

#### **DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION**

Based on the above analysis and findings staff has determined that the requested zoning map amendment meets the requirements of Sec. 27-335 of the Zoning Ordinance; therefore, staff recommends **APPROVAL** of the rezoning from the current C-1 (Local Commercial) District and Dunwoody Village Overlay District to the DV-4 (Village Center) District.

**AN ORDINANCE TO AMEND THE CITY OF DUNWOODY ZONING CLASSIFICATION AND MAP OF LOT PARCEL NUMBER 18 366 01 001, and 18 366 01 022 IN CONSIDERATION OF ZONING CASE RZ 21-01 (5500 Chamblee Dunwoody Rd & 1244 Dunwoody Village Pkwy)**

**WHEREAS,** the Mayor and City Council have considered and approved a comprehensive rezoning of properties in the Dunwoody Village area in 2020; and

**WHEREAS,** Most of the development with the Dunwoody Village was constructed in the 1970s and 1980s and as automobile-oriented developments, the buildings are largely one-story in height, contain large surface parking lots and have minimal functional open space; and

**WHEREAS,** By adopting these changes, the City of Dunwoody intends to: maintain and enhance the identity and image of Dunwoody Village; accommodate and promote walkable, development patterns containing a complementary mix of land uses; create opportunities for functional, landscaped, open and gathering spaces in the commercial core of Dunwoody; ensure that new development and substantial additions to existing buildings are designed to promote Dunwoody Village as an area of unique character while requiring that all new construction makes use of design standards and materials that enhance the district, complement existing character, and allow for the introduction of new design elements while encouraging the addition of walkability and green space; support efforts to create a vibrant shopping and entertainment area in which merchants and businesses thrive and grow, thereby helping to maintain property values and keeping vacancy rates low; and maintain and enhance the area's role as a place for civic activities and public gatherings within well-designed open spaces; and

**WHEREAS,** The two subject parcels were originally intended to be part of said comprehensive rezoning and are essential for the implementation of the City's Comprehensive Plan and of the Dunwoody Village Master Plan; and

**WHEREAS,** The Mayor and City Council find that the proposed changes are appropriate and will enhance the public health, safety, and welfare within the City; and

**WHEREAS:** The Mayor and City Council have conducted a public hearing as required by the Zoning Procedures Act prior to adoption of this Ordinance; and

**ORDINANCE 2021-XX-XX**

**WHEREAS:** Notice to the public regarding said amendment to the zoning map has been duly published in The Dunwoody Crier, the Official News Organ of the City of Dunwoody, Georgia.

**NOW THEREFORE,** THE MAYOR AND CITY COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY **ORDAIN AND APPROVE** the rezoning of said properties from C-1 (Local Commercial) District and Dunwoody Village Overlay District to a DV-4 (Village Center) District subject.

**SO ORDAINED AND EFFECTIVE,** this \_\_\_\_ day of \_\_\_\_\_, 2021.

Approved by:

\_\_\_\_\_  
Lynn Deutsch, Mayor

Attest:

Approved as to Form and Content

\_\_\_\_\_  
Sharon Lowery, City Clerk

\_\_\_\_\_  
Office of City Attorney

SEAL